

KEVIN V. RYAN (CSBN 118321)
United States Attorney

EUMI L. CHOI (WVBN 0722)
Chief, Criminal Division

PHILIP J. KEARNEY (CSBN 114978)
Assistant United States Attorney

450 Golden Gate Avenue
San Francisco, California 94102
Telephone: (415) 436-6758
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD THOMAS,

Defendant.

Criminal No. CR 05-0507 PJH

**STIPULATION AND ~~[PROPOSED]~~
ORDER EXCLUDING TIME**

The above-captioned matter was scheduled to come before the Court on August 31, 2005, for trial setting. BERNARD THOMAS, represented by Elena Condes, Esq., and the government, represented by Philip J. Kearney, Assistant United States Attorney, submit this stipulation and proposed order excluding time to the Court requesting that the matter be continued until September 14, 2005 at 1:30p.m. This request is based on the fact that counsel for the defendant plans to assist her sister during the delivery of her sister's child beginning in the afternoon of August 30, 2005, and for counsel for the defense to better prepare the matter, taking into account the exercise of due diligence.

**STIPULATION AND ~~[PROPOSED]~~
ORDER EXCLUDING TIME
CR 05-0507 PJH**

1 The parties request that the Court make a finding that the time between August 31,
2 2005, and September 14, 2005, should be excluded under the Speedy Trial Act, 18 U.S.C.
3 § 3161(h)(8)(A), because the ends of justice served by taking such action outweigh the
4 best interest of the public and the defendant in a speedy trial. That finding is based on
5 defense counsel's request for additional time to adequately prepare the matter, taking into
6 account the exercise of due diligence. That finding should be made pursuant to 18 U.S.C.
7 § 3161(h)(8)(B)(iv).

8 The parties hereby agree to and request that the case be continued until September
9 14, 2005, at 1:30 p.m. and that an exclusion of time until that date be granted. The parties
10 agree and stipulate that the additional time is appropriate and necessary under Title 18,
11 United States Code, Section 3161(h)(8)(A), because the ends of justice served by this
12 continuance outweigh the best interest of the public and the defendant in a speedy trial.
13

14 DATED:

15 _____
16 ELENA CONDES, ESQ.
17 Counsel for BERNARD THOMAS

/s/

18 DATED:

19 _____
20 PHILIP J. KEARNEY
21 Assistant United States Attorney

22 So ordered.

23 DATED: 8/30/05

24 _____
25 PHYLLIS J. HAMILTON
26 UNITED STATES DISTRICT JUDGE
27
28